

Chapter 80: Demolition Delay

[Adopted 5-11-98 Adj. ATM Art. 25. Amendments noted where applicable.]

§ 80.1. Intent and purpose.

This bylaw is adopted for the purpose of preserving and protecting significant buildings within the Town which constitute or reflect distinctive features of the architectural, cultural, political, economic, or social history of the Town; to encourage owners of such buildings to seek out persons who might be willing to purchase, preserve, rehabilitate, or restore such buildings rather than demolish them. To achieve these purposes the Westford Historical Commission (herein after the “Commission”) is empowered to advise the Building Commissioner with respect to the issuance of permits for demolition of significant buildings.

§ 80.2. Definitions.

Building – Any combination of materials capable of being used as shelter for persons, animals or property.

Commission – The Westford Historical Commission.

Commissioner – The Westford Building Commissioner.

Demolition permit – The permit issued by the Commissioner as required by the state building code for demolition or removal of a building or structure.

Historically significant building or structure - Any building or structure which is:

- A. importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the Town, the Commonwealth of Massachusetts or the United States of America; or
- B. is historically or architecturally important by reason of period, age, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures.

§ 80.3. Regulated buildings and structures.

- A. A building or structure listed on, or is within an area listed on, the National Register of Historic Places or the State Register of Historic Places, or the subject of a pending application for listing on either of said Registers; or
- B. A building or structure located within 200 feet of the boundary line of any federal, state or local historic district; or
- C. A building or structure included in the Inventory of the Historic Assets of the Commonwealth, or designated by the Commission for inclusion in said inventory including those buildings listed for which complete surveys may be pending; or
- D. A building or structure determined by vote of the Commission to be historically or architecturally significant in terms of period, style, and method of building construction based on the following criteria:
 - E. Properties listed on the State Register of Historic Places and the Inventory of Historic Assets of the Commonwealth for the Town of Westford.
 - F. Properties in existence in or before 1921.
 - G. Properties that appear on the 1855 Symmes Maps.

- H. No demolition permit shall be issued for a regulated building or structure without full compliance with the provisions of this bylaw.

§ 80.4. Procedure.

- A. The Commissioner shall forward a copy of each demolition permit application for all regulated buildings or structures identified in section 80.3 of this bylaw to the Commission within 7 days after the filing of such application. No demolition permit shall be issued at that time.
- B. Within 30 days after the receipt of such application, the Commission shall determine whether the building or structure is historically significant. The applicant for the permit shall be entitled to make a presentation to the Commission if he/she makes a timely request in writing to the Commission.
- C.
 - 1. If the Commission determines that the building or structure is not historically significant, it shall so notify the Commissioner and the applicant in writing and the Commissioner may issue a demolition permit.
- D. If the Commission determines that the building or structure is historically significant, it shall notify the Commissioner and the applicant in writing that a demolition plan review must be made prior to the issuance of a demolition permit. If the Commission fails to notify the Commissioner and the applicant of its determination within 60 days after its receipt of the application, then the building or structure shall be deemed not historically significant and the Commissioner may issue a demolition permit.
- E. Within 30 days after the applicant is notified that the Commission has determined that a building or structure is historically significant, the applicant for the permit shall submit to the Commission 7 copies of a demolition plan which shall include the following information:
 - a. a map showing the location of the building or structure to be demolished with reference to lot lines and to neighboring buildings and structures
 - b. photographs of all street facade elevations
 - c. a description of the building or structure to be demolished
 - d. the reason for the proposed demolition and data supporting said reason, including, where applicable, data sufficient to establish any economic justification for demolition, and
 - e. a brief description of the proposed reuse of the parcel on which the building or structure to be demolished is located.
- F.
 - 1. The Commission shall hold a public hearing within 30 days of receipt of the demolition plan referenced in section 80.4.D, with respect to the application for a demolition permit, and shall give public notice of the time, place, and purposes thereof at least 14 days before said hearing in such manner as it may determine, and by mailing, postage prepaid, a copy of said notice to the applicant, to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby as they appear on the most recent real estate tax list of the Board of Assessors, to the Planning Board, to any person filing written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the Commission shall deem entitled to notice. Within 60 days after its receipt of the demolition plan, the Commission shall file a written report with the Commissioner on the demolition plan which shall include the following:

- a. a description of age, architectural style, historic association and importance of the building or structure to be demolished
 - b. a determination as to whether or not the building or structure should preferably be preserved.
- G. The Commission shall determine that a building or structure should preferably be preserved only if it finds that the building or structure is an historically significant building or structure which, because of the important contribution made by such building or structure to the Town's historical and/or architectural resources, it is in the public interest to preserve, rehabilitate or restore.
- H. If, following the demolition plan review, the Commission does not determine that the building or structure should preferably be preserved, or if the Commission fails to file a report with the Commissioner within the time limit set out in section 80.4 above, then the Commissioner may issue a demolition permit.
- I. If, following the demolition plan review, the Commission determines that the building or structure should preferably be preserved, then the Commissioner shall not issue a demolition permit for a period of 6 months from the date of the filing of the Commission's report unless the Commission informs the Commissioner prior to the expiration of such 6-month period that it is satisfied that the applicant for the demolition permit has made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, rehabilitate or restore the building or structure, or has agreed to accept a demolition permit on specific conditions approved by the Commission. During the 6-month review period, the Commission shall invite the applicant to participate in an investigation of alternatives to demolition.

§ 80.5. Determination of applicability.

An owner of a regulated building or structure may petition the Commission for a determination of applicability of the bylaw. Within 60 days after the receipt of such application, the Commission shall determine whether the building or structure is historically significant. The applicant for the permit shall be entitled to make a presentation to the Commission if he/she makes a timely request in writing to the Commission. The determination by the Commission of whether a regulated building or structure is historically significant shall be made in writing signed by the Commission and shall be binding on the Commission for a period of 5 years from the date thereof.

§ 80.6. Emergency demolition.

If the condition of a building or structure poses a serious and imminent threat to public health or safety due to its deteriorated condition, the owner of such building or structure may request the issuance of an emergency demolition permit from the Commissioner. If possible and as soon as practical after the receipt of such a request, the Commissioner shall arrange to have the property inspected by a board consisting of himself/herself, the Chairman of the Commission, the Chairman of the Board of Health, and the Chief of the Fire Department, or their respective designees. After inspection of the building or structure and, to the extent possible, consultation with this Board, the Commissioner shall determine whether the condition of the building or structure represents a serious and imminent threat to public health or safety and whether there is any reasonable alternative to immediate demolition of the building or structure which would protect the public health or safety. If the Commissioner finds that the condition of the building or structure poses a serious and imminent threat to public health or safety, and that there is no reasonable alternative to the immediate demolition permit under the provisions of this section 80.6 they shall prepare a written report describing the condition of the building or structure and the basis for his/her decision to issue an emergency demolition permit with the Commission. Nothing in this section 80.6 shall be inconsistent

with the procedures for the demolition and/or securing of building and structures established by chapter 143, section 6-10 of the Massachusetts General Laws. In the event that a Board of Survey is convened under the provisions of section 8 of said chapter 143 with regard to any building or structure identified in section 80.3 of this bylaw, the Commissioner shall request the Chairman of the Commission or his/her designee to accompany that Board of Survey during its inspection. A copy of the written report prepared as a result of such inspection shall be filed with the Commission.

§ 80.7. Non-compliance.

- A. The Commission and the Building Commissioner are each authorized to institute any and all proceedings in law or equity, as they deem necessary and appropriate to obtain compliance with the requirements of this bylaw, or to prevent a violation thereof.
- B. No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this bylaw for a period of 22 months after the date of the completion of such demolition. As used herein “premises” includes the parcel of land upon which the demolished significant building was located
- C. Upon a determination by the Commission that a building is a preferably-preserved significant building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Commissioner. Should the owner fail to secure the building, the loss of such building through fire or other cause shall be considered voluntary demolition for the purposes of section 80.6.
- D. Anyone who demolished a building or structure identified in section 80.3 of this bylaw without first obtaining and complying fully with the provisions of a demolition permit, shall be subject to a fine of not less than \$100 not more than \$300.

§ 80.8. Severability.

If any section, paragraph or part of this bylaw be for any reason declared invalid or unconstitutional by any court authority, every other section, paragraph and part shall continue in full force and effect.